

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

CHRISTOPHER RUSH,

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-00364

BRAD DOUGLAS, et al.,

Defendants.

ORDER

Pending before this Court is a motion to dismiss filed by Defendant Brad Douglas (“Defendant”). (ECF No. 13.) By standing order entered on January 4, 2016, and filed in this case on February 28, 2018, (ECF No. 4), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition (“PF&R”). Magistrate Judge Tinsley filed his PF&R on May 15, 2019, recommending that this Court deny Defendant’s motion without prejudice, thereby enabling Defendant to file a renewed motion or other responsive pleading if he is named in Plaintiff Christopher Rush’s amended complaint. (ECF No. 31 at 3.)

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the PF&R to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff’s right to appeal this Court’s order. 28 U.S.C.

§ 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on June 3, 2019. (ECF No. 31.) To date, neither party has submitted any objections in response to the PF&R, thus constituting a waiver of *de novo* review and the parties’ right to appeal this Court’s order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 31), in full. Defendant’s motion to dismiss, (ECF No. 13), is **DENIED WITHOUT PREJUDICE**. This matter remains referred to Magistrate Judge Tinsley for further pretrial management and submission of PF&Rs.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 18, 2019



THOMAS E. JOHNSTON, CHIEF JUDGE